

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HUNTER HARRIS and)	
CORA CLUETT,)	
Plaintiffs)	
)	
v.)	CIVIL ACTION NO. 1:21-cv-11244
)	
UNIVERSITY OF MASSACHUSETTS)	
LOWELL, JACQUELINE MOLONEY,)	
UNIVERSITY OF MASSACHUSETTS)	
BOSTON, MARCELO SUÁREZ-)	
OROZCO and SHAWN DE VEAU)	
Defendants)	
)	

DECLARATION OF CHRISTINE H. PACKARD

I, Christine H. Packard, hereby depose and say the following based on my personal knowledge:

I. Experience and Education

1. I am the Director of Enterprise Risk Management (“ERM”) within the Office of the President of the University of Massachusetts (“UMass” or “University”) and have served in that position since August 2019.

2. The University of Massachusetts is a public research university comprised of five campuses at Amherst, Boston, Dartmouth, Lowell, and Worcester and has more than 75,000 undergraduate and graduate students, including 18,394 total students at Plaintiff Harris’s UMass Lowell campus and 16,259 total students at Plaintiff Cluett’s UMass Boston campus as of Fall 2020. <https://www.uml.edu/News/press-releases/2020/UMassLowellfallenrollmentrelease.aspx>; https://www.umb.edu/editor_uploads/images/oirp/Table_1_Headcount_FTE_by_Full-timePart-time_Status.pdf

3. The University's Office of the President, led by President Marty Meehan, provides leadership, financial management, and oversight to the University system, collaborates with the campuses on joint academic and financial initiatives, and provides shared services on behalf of the University's students.

4. As Director of ERM, I oversee and facilitate the system-wide ERM program by coordinating with all five campuses and the Office of the President to identify, assess, and prioritize risks impacting the University, supporting the identification, documentation, and monitoring of risk mitigation strategies, maintaining a system-wide risk registry, conducting research to advance the ERM program, participating in regional and national programs and workgroups to learn and share best practices, and developing ERM reports, presentations, spreadsheets, dashboards, and other documents. I also partner with President's Office leadership and staff on matters related to risk, risk management, and emergency management, serve as co-chair of the University Health and Safety Council, support the University's insurance program, and support the University's Administration and Finance Department with ongoing projects and activities.

5. Since the onset of the COVID-19 pandemic, I have served as the system-wide point of contact for the University's COVID-19 response and mitigation activities. I coordinated with the five campuses on immediate response activities in March 2020 and on the development of response and mitigation plans; I facilitated planning across the University system with leadership and operational staff at each campus; and I provided regular updates to the University's Board of Trustees, leadership and staff in the Office of the President, and leadership on each of the campuses. In sum, I am familiar at a high level with the University's campus operations generally and with its COVID-19 response particularly.

6. Prior to joining the University, I was Deputy Director of the Massachusetts Emergency Management Agency from May 2012 until August 2019. In that role, I served as the second-in-charge for the Agency, overseeing all aspects of preparedness, mitigation, response, and recovery for significant disasters impacting the Commonwealth, and played a lead role during the response to the 2013 Boston Marathon bombings, the 2015 blizzards that impacted the Commonwealth for two months, and the 2018 Columbia Gas natural gas pipeline explosions that devastated large areas of Lawrence, North Andover, and Andover Massachusetts. In addition, I played a role in developing plans for Ebola response as well as the follow-on safety and response plans for the Boston Marathon after the bombings to ensure the health and safety of impacted communities.

7. Earlier in my career, I served as the Massachusetts Department of Public Health liaison to the Massachusetts Emergency Management Agency. In this role, I supported the development of plans to respond to infectious diseases such as smallpox and influenza, as well as biological incidents involving anthrax. I supported the creation of the Commonwealth's plan to distribute critical medications through the Strategic National Stockpile and completed training at the national Center for Domestic Preparedness. I also served as an emergency management consultant from 2008-2012 and, in that role, supported the Vermont Department of Public Health in conducting an after-action review of its vaccination administration in response to H1N1 influenza.

8. I received a Bachelor's degree in Political Science from the University of Massachusetts Boston in 1996, and a Master of Public Administration from Suffolk University in 2001. I served as an adjunct professor for a graduate-level Homeland Security program at

Endicott College from 2019-2020, teaching a course on leadership and ethics in emergency management.

9. I am a recipient of the 2018 Manuel Carballo Governor's Award for Excellence as well as the Governor's Citation for Outstanding Performance in 2001 and 2019. My curriculum vitae is attached as Exhibit A.

II. University's Early COVID-19 Response.

10. On March 10, 2020, Governor Baker declared a state of emergency in response to the COVID-19 pandemic. <https://www.mass.gov/news/declaration-of-a-state-of-emergency-to-respond-to-covid-19>.

11. Since early 2020, the University has engaged in thorough, coordinated, and proactive efforts to protect the University community from COVID-19 risks. On January 28, 2020, the University recalled all of its students from active Study Abroad programs, began actively monitoring the latest state and federal guidance and information concerning COVID-19, and planned the operational needs and impacts of the developing situation including, but not limited to, providing daily updates on COVID-19, beginning on March 12, 2020, for the University's Board of Trustees, President's Office senior staff, campus leadership, and operational staff.

12. On March 14, 2020, all University campuses decided to transition to remote learning effective March 16, 2020, to de-densify campus populations and reduce the high degree of physical proximity among students, faculty, and staff in classrooms, dining halls, libraries, and other common areas, as well as among students in residential settings with shared sleeping quarters, bathrooms, and common areas.

13. On May 3, 2020, President Meehan was appointed to the Massachusetts Higher Education Working Group ("Working Group") along with 13 other Massachusetts public and

private college and university presidents. The Working Group was charged with developing recommendations for the Governor on reopening institutions of higher education in Massachusetts. I served as staff support to President Meehan on the Working Group, which met repeatedly in May 2020 to discuss, review, and develop its recommendations. On May 22, 2020, the Working Group presented its recommendations to the Governor's Reopening Advisory Board. The Working Group also initiated the Massachusetts Higher Education Testing Group ("Testing Group"), which included among its members Chancellor Michael F. Collins, MD of the UMass Medical School. On June 16, 2020, the Testing Group issued a report with recommendations.

14. I developed the University's reopening guidance and checklist for Fall 2020 operations based on and in accord with federal and state guidance and in consultation with the campuses. I also developed the University's reopening guidance and checklist for Spring 2021 operations based on and in accord with federal and state guidance and in consultation with the campuses and concluded that the plans submitted by the campuses for each semester were in accord with the UMass guidance and checklist.

15. During the Fall 2020 and Spring 2021 semesters, I collected and provided weekly asymptomatic testing data, compiled this data for the Board of Trustees and President's Office leadership, and coordinated with the campuses to provide monthly operational updates to the Board of Trustees.

III. Return to "Normal" Operations.

16. With the commencement of Phase IV of the Commonwealth reopening in March 2021, campuses projected full or near-full repopulation of campuses for Fall 2021.

17. In such circumstances, the University's residential campuses, including UMass Lowell and UMass Boston, have students who are often in congregate settings where the risk of spreading COVID-19 is elevated — students live in dorms on campus (with shared bathrooms, kitchens, and common areas), eat in communal dining halls, and share exercise facilities, classrooms, laboratories, performance spaces, locker rooms, social activities, and the like.

18. The CDC has stated that COVID vaccines are effective against COVID-19, including reducing severity of disease, hospitalization, and death. Since late 2020, the CDC has issued guidance, reports and data demonstrating that the vaccines are safe and effective.

<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html>

19. In April 2021, the Chancellors of each of the University's five campuses determined that the University should implement a requirement that all students receive a COVID-19 vaccination prior to returning to campus for the Fall 2021 semester. The decisions to implement a Vaccine Requirement were based upon guidance from the CDC that COVID-19 vaccines are safe and the most effective way to prevent the spread of COVID-19, and that preventing the spread of COVID-19 was a critical public health goal for each campus, particularly in light of the congregate setting of each campus. These requirements were announced as follows:

20. On April 22, 2021, UMass Amherst Chancellor Subbaswamy announced that the campus was preparing for a return to normal campus operations for Fall 2021 and would "require all undergraduate and graduate students who wish to live or learn or conduct research on campus, or access campus resources, to be fully vaccinated prior to the beginning of the fall semester, on the basis of expected additional state, federal and legal guidance and vaccine availability, and subject to religious and disability accommodations pursuant to state and federal law."

<https://www.umass.edu/chancellor/message-chancellor-subbaswamy-about-fall-operating-plans>.

The Chancellor further noted that “[e]vidence to date concerning the present and expected approval status and effectiveness of the COVID-19 vaccines supports the university’s position.”

Id. In addition, faculty and staff were strongly encouraged to be vaccinated.

21. On April 26, 2021, UMass Boston’s Marie Bowen, Vice Chancellor for Human Resources, Gail DiSabatino, Vice Chancellor for Student Affairs, and Robert Pomales, Executive Director of University Health Services, made the following announcement:

As vaccination is the most effective way to stop the spread of the virus, it will be a key component in our eventual return to campus. Thus, **we will require vaccinations for all UMass Boston students who are coming to campus, or physically accessing campus resources for the fall semester, and wish to live, learn and/or conduct research on campus**, on the basis of expected additional state, federal, and legal guidance and vaccine availability. We will accommodate medical, disability, and religious exemptions.

At this time, **we recommend and strongly encourage faculty and staff to be vaccinated prior to the fall semester**. We may revisit the issue of required vaccinations for faculty and staff as we continue to develop our plans to assure the health and safety of all members of our community.

https://www.umb.edu/news/detail/an_update_on_vaccinations_for_the_umass_boston_community

y (emphasis in original).

22. On April 28, 2021, Provost Joseph Hartman of UMass Lowell issued the following announcement:

Consistent with the growing consensus of colleges and universities across the country, UMass Lowell will require all residential and commuter students to be fully vaccinated against COVID-19 prior to the beginning of the fall semester to live, learn or visit any UMass Lowell campus or property.

The University is making this decision based on widely anticipated additional state and federal public health guidelines in the coming months as well as ample vaccine availability at vaccination sites across Massachusetts and throughout the country.

<https://www.uml.edu/alert/coronavirus/4-27-21-Student-Vaccine-Requirement.aspx>. The announcement also noted that religious and medical exemptions would be available consistent with state and federal laws. Id.

23. On April 30, 2021, Chancellor Mark Fuller of UMass Dartmouth made the following announcement:

UMass Dartmouth looks forward to resuming on-campus, in-person classes for the Fall 2021 semester. To support this goal and consistent with the other campuses in the UMass system, we will require COVID-19 vaccinations for all undergraduate and graduate students who wish to live, learn, or physically come to campus before the start of the Fall 2021 semester. This decision was made on the basis of expected additional state, federal and legal guidance and vaccine availability. Of course, the University will accommodate medical, religious, or disability exemptions pursuant to state and federal law. Evidence to date concerning the present and expected approval status and effectiveness of the COVID-19 vaccines supports the university's position.

UMass Dartmouth also strongly encourages and recommends that all faculty and staff be fully vaccinated before the start of the fall semester. The University may revisit the issue of required vaccinations for faculty and staff as we continue our planning efforts that promote the health and safety of our entire campus community.

<https://www.umassd.edu/news/2021/updates-vaccinations-on-campus-testing-fall-2021.html>.

24. On July 29, 2021, Terence R. Flotte, MD, Executive Deputy Chancellor, Provost, and Dean, Anne Larkin, MD, Vice Provost for Educational Affairs, Alan Acosta, PhD, Assistant Vice Provost for Student Life, and Sharone Green, MD, Infection Control Officer sent an email to UMass Medical School ("UMMS") students in which they announced:

- Effective August 6, 2021, UMMS is mandating COVID-19 vaccination for all students who wish to learn or conducting research on campus in any capacity.
- Unvaccinated students must receive their first dose of vaccine no later than September 7, 2021, and, if applicable, their second dose by October 8, 2021. During this period where unvaccinated students are obtaining their vaccine, they can continue to access campus provided they wear a mask at all times, maintain appropriate physical distancing, and stay updated in their surveillance testing.
- Requests for medical or religious exemption may be submitted by September 7, 2021.

- Any student who does not provide proof of vaccination or receive an approved exemption by October 22, 2021, will not be permitted to access campus.
- There is a weekly surveillance testing requirement.
- Masks are be required when inside all UMMS buildings and spaces.

25. The recent rise in COVID-19 cases attributable to the Delta variant provides new and increasing justification for requiring vaccines for students. The CDC states that COVID-19 vaccines “continue to be highly effective at preventing hospitalization and death, including against this [Delta] variant.” <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/work.html>.

26. On August 4, 2021, each of the five campuses submitted final draft plans for Fall 2021. At that time, UMass Amherst anticipated 13,396 students in residential housing; UMass Boston anticipated 1,077 students in residential housing; UMass Dartmouth anticipated 1,856 students in residential housing; UMass Lowell anticipated 3,877 students in residential housing.

27. Each campus is offering primarily in-person instruction. UMass Boston is offering primarily in-person instruction with certain courses being offered in hybrid or remote modalities under a pilot program. UMass Lowell will offer primarily in-person courses with some on-line options.

28. Each campus plan includes the previously-announced requirement for all undergraduate and graduate students who wish to live, learn, or conduct research on campus or access campus resources to be fully vaccinated prior to the beginning of the fall semester, unless exemptions are granted for medical contraindications or sincerely-held religious beliefs. The campuses have processes in place to verify vaccination status of each student.

IV. Faculty/Staff Vaccination Plans.

29. In FY21, the University had approximately 14,238 total full time equivalent (FTE) employees, including approximately 1,782 at UMass Lowell and 1,863 at UMass Boston.

<https://www.umassp.edu/budget-office/reports-and-initiatives/annual-operating-budget-and-financial-forecast> (*Operating Budget FY22*).

30. On August 3, 2021, President Meehan announced that all staff in the UMass President's Office would be required to be vaccinated by September 13 (which has since been extended to September 27 to coincide with the first day of the President's Office Hybrid Work Pilot). Staff are able to seek exemptions for medical contraindications to the vaccine, as well as for sincerely held religious beliefs. Staff who have not been granted an exemption, are not in the process of being vaccinated, or have not shown proof of vaccination by September 27 will be placed on unpaid leave. Continued non-compliance may result in termination.

31. On August 9, 2021, Chancellor Subbaswamy announced to the UMass Amherst campus community via email the following news about vaccination and face-covering requirements:

- UMass Amherst will require faculty and staff to be vaccinated, following recent agreements with campus labor unions.
- Starting on August 11, in concert with new guidance from the CDC and in response to the COVID-19 Delta variant, UMass Amherst will require use of masks in indoor spaces.
- The Chancellor also noted that vaccinations are the most important protection against COVID-19 and reported that 96 percent of domestic undergraduate and graduate students, as well as the great majority of international students, had complied with the COVID-19 vaccination requirement.

32. The following day, UMass Amherst Vice Chancellor and Chief Human Resources Officer Bill Brady and Provost and Senior Vice Chancellor for Academic Affairs John McCarthy sent a follow-up email to the campus community in which they specified that:

- Faculty and staff who are not yet vaccinated will be required to have received their first dose of a COVID-vaccine by August 16, 2021, and, if required by their vaccine’s protocols, a second dose by September 16, 2021.
- Failure to comply with the vaccination requirement will result in the faculty or staff member being placed on unpaid leave, during which time employees would be permitted to use accrued compensatory, personal, and vacation leave—but not sick leave – to remain in pay status. The leave will continue until proof of vaccination is provided to the university.
- Individuals who wished to request a medical or religious-based exemption from the vaccination requirement could do so by using the forms located on the Fall 2021 website of the Office of Human Resources (<https://www.umass.edu/humres/fall-2021>).
- Individuals with qualifying exemptions will be required to participate in weekly asymptomatic testing and comply with masking policies.
- The campus will be tracking vaccination status in its confidential health hub system.

33. On August 10, 2021, Dean Flotte and Dr. Sharone Green made an announcement via memorandum to Medical School faculty and staff, that:

- The Medical School is implementing a COVID-19 vaccination requirement for all UMMS faculty and staff that applied regardless of whether faculty and staff were working on campus, in a hybrid model, or remotely – a requirement that “reflect[ed] [the Medical School’s] highest priority, which is to protect the health and safety of our campus and broader communities,” “follow[ed] months of thoughtful deliberation and monitoring of the pandemic; evaluation of data, including infection trends; and, more recently, the spread of the highly contagious Delta variant,” and was “consistent with [the] previously announced vaccination requirement for students and will also apply to all vendors and visitors who work on or come to campus.”
- In requiring vaccination for faculty, staff, and students, the Medical School is upholding its responsibility to apply scientific evidence and ensure that it is taking all practical measures to protect its community in accord with CDC advice that COVID-19 vaccines are safe and highly effective at preventing severe infection, hospitalization, and death, even with respect to the Delta variant.

- There will be deadlines for submission of proof of vaccination for faculty and staff who have already been vaccinated and for completing compliance with the requirement and submitting proof for those who are not yet fully vaccinated.
- Failure to comply with the proof of vaccination deadlines would result in the employee's ID badge being deactivated, restricted access to campus, and would require employee consultation with managers to determine if the Medical School's Work from Home policy is feasible until the employee can be vaccinated.
- Employees who have not received at least one dose of COVID-19 vaccine by September 7 may be subject to employer actions up to and including termination.
- Faculty and staff who wish to request a medical or religious exemption based on a medical contraindication or sincerely held religious belief can do so prior to September 7. Exemption requests must be in writing and include supporting documentation.
- Even faculty and staff who are already vaccinated will be required to follow the current campus COVID-19 protocols, including wearing a mask while indoors, participating in surveillance testing if you are on campus one or more days per week and following guidance on hygiene, isolation and quarantine.

34. On August 11, 2021, Steven H. O'Riordan, Vice Chancellor for Finance and Operations at UMass Lowell, referencing the rise of the COVID-19 Delta variant yet reiterating UMass Lowell's intention to return to full on-campus operations, notified the campus community that:

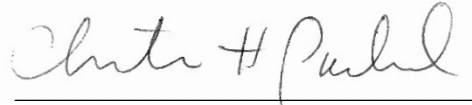
- All UMass Lowell non-union and part-time employees as well as vendors will be required to be vaccinated.
- Exemptions will be available for qualified religious and medical reasons.
- The campus is in conversations with leaders of each of its unions with the goal of requiring vaccinations for unionized faculty and staff (with similar accommodations available).
- Consistent with federal and state public health guidance, face coverings will be required for all faculty, staff, students, vendors, and visitors beginning Monday, August. 16 in nearly all indoor common spaces.

- Campus community members will be expected to continue conducting daily symptom checks and to stay home or in residence hall rooms if they develop symptoms, and UMass Lowell will also explore options for limited surveillance testing for unvaccinated employees and students with approved exemptions.

<https://www.uml.edu/alert/coronavirus/8-11-21-Planning-for-Safe-Semester.aspx>

35. UMass Dartmouth and UMass Boston are actively continuing discussions with labor unions on agreements to require vaccination of employees.

Signed under the pains and penalties of perjury this 17th day of August 2021.


Christine H. Packard